



YELLOWSTONE COUNTY BOARD OF ADJUSTMENT

YELLOWSTONE COUNTY, MONTANA

THURSDAY, AUGUST 8, 2013

SUBJECT: Variance #266 – 1844 Old Hardin Road – Reduce Lot area for 2 homes
THROUGH: Candi Millar, AICP, Planning Director
PRESENTED BY: Nicole Cromwell, AICP, Zoning Coordinator

REQUEST

This is a variance from 27-308 requiring a minimum lot area of 15,000 square feet for each single family dwelling for a total of 30,000 square feet to allow a minimum lot area of 22,160 square feet for 2 dwelling units in an Residential 15,000 (R-150) zone on C/S 337. The applicants intend to place a manufactured home on the lot and the lot has 1 existing single family dwelling. The property is legally described as C/S 337 and is generally located at 1844 Old Hardin Road. The Board of Adjustment determinations for variances are included at the end of the staff report. The Planning Division is forwarding a recommendation of conditional approval.

APPLICATION DATA

OWNER: Jerry and Ailene Thulesen
AGENT: None
PURPOSE: To allow the placement of 1 additional dwelling on a lot of 22,160 square feet
LEGAL DESCRIPTION: C/S 337
ADDRESS: 1844 Old Hardin Road
SIZE OF PARCEL: 22,160 square feet
EXISTING LAND USE: Single family home
PROPOSED LAND USE: Same with additional dwelling
EXISTING ZONING: R-150

APPLICABLE ZONING HISTORY

Subject Property - None

Surrounding Property

Variance #156 – 1804 Sunrise Street – Denied May 10, 1995 – A variance from the 27-308 requiring 15,000 square feet per dwelling unit to allow 10,000 square feet per dwelling unit to place a 2nd home on the lot.

SURROUNDING ZONING & LAND USE

NORTH: Zoning: HC
Land Use: Commercial
SOUTH: Zoning: R-150
Land Use: Single family homes

EAST: Zoning: R-150
 Land Use: Single family homes
WEST: Zoning: R-150
 Land Use: Single family homes

REASONS

This is a request for a variance from Section 27-308 requiring 15,000 square feet of lot area for each single family dwelling. The land owner wants to add another single family dwelling – a manufactured home – to the south end of this property. The total lot area is only 22,160 square feet. The property is zoned R-150 as are the lots to the east, west and south. Property north across Old Hardin Road is zoned Highway Commercial and is developed for commercial uses. Old Hardin Road is a principal arterial street that carries about 4,570 vehicle trips per day. There are several properties on the south side of Old Hardin Road that are zoned for residential uses. The existing home is connected to the Lockwood Water and Sewer services. The proposed new dwelling will need to have a separate water service line installed. Lockwood Water and Sewer states the new home can hook up to the existing sanitary sewer line through the existing line connected to the home. The lot is an irregular shape with only about 50 feet of width along Old Hardin Road but 450 feet deep. There several similar lots in this subdivision.

The Planning staff reviewed the zoning history in the area and found 1 similar application that was denied by the BOA in 1995. This property is located at 1804 Sunrise Street. In addition, staff reviewed existing development in the area and found 6 properties in the immediate area with 2 dwelling units on lots ranging from 16,000 square feet to 23,000 square feet. None of these lots have approved variances. In 1995, Lockwood had a public water system but no public sewer system. Additional dwellings on lots less than 1 acre were discouraged in order to protect public health and the development character of Lockwood. Since the installation of a public sewer system, the concern for public health and development density is not a concern.

The Planning staff has review the application and is recommending conditional approval based on the findings of the criteria variances. The Board of Adjustment has denied 1 variance 18 years ago, but there are 6 properties in the immediate area with 2 dwellings on lots less than 30,000 square feet that have not been granted variances. Granting the variance would not grant this owner a special privilege denied to other property in the district. Denying the variance would deprive the applicant of rights commonly enjoyed by other property in the neighborhood. The Planning Division is recommending conditions of approval to ensure the proposed 2nd dwelling is compatible with the surrounding property.

RECOMMENDATION

The Planning Division is recommending conditional approval.

DETERMINATIONS

The Board of Adjustment, before it grants a variance shall determine:

- 1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;**

There are no special conditions or circumstances that are peculiar to the land and create a hardship that is applicable to the subject property. The only potential hardship is the underlying zoning of R-150. If the zoning were changed to R-96, the owners could place an additional dwelling on the property without a variance. The lot is not a regular shaped lot, but this does not affect the area of the lot.

2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;

Staff is aware of 1 variance that was denied in the immediate neighborhood. However, 6 surrounding properties have been developed with 2 dwelling units on lots of less than 30,000 square feet. Denial of the requested variance would deprive this owner of rights commonly enjoyed by others in the same district and area.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other land in the same district;

Granting the variance will not confer on the applicant a special privilege that is denied other land in the district.

4. That the granting of the variance will be in harmony with the general purpose and intent of this Chapter and with the Growth Policy;

The granting of this variance will not conflict with the Yellowstone County and City of Billings 2008 Growth Policy. The addition of a dwelling unit on the south end of the lot is compatible with the character of the area.

5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Chapter;

Staff is recommending conditions of approval as follows:

1. The variance to decrease the required lot area from 30,000 square feet for two dwelling units to 22,160 square feet for 1 additional dwelling unit. No other variance is intended or implied by this approval.
2. The variance is limited to C/S 337, generally located at 1844 Old Hardin Road.
3. The applicant will place the manufactured home in substantial compliance with the submit site plan and drawings and within 6 months of Board of Adjustment approval. The side setback shown on the site plan must be increased to 10 feet – this is the required minimum side setback for the R-150 zoning district.
4. The applicant will ensure the manufactured home meets all the requirements for a Class A Manufactured Home as specified in Section 27-608 including:
 - a. The home has a length not exceeding four (4) times its width;
 - b. The pitch of the home's roof has a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run (3:12), and the roof is finished with a type of shingle that is commonly used in standard residential construction;
 - c. The exterior siding consists of wood, hardboard, aluminum or vinyl siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;

- d. A continuous, permanent perimeter foundation, which complies with the Uniform Building Code, is installed under the home; and
 - e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
 - 5. Any new drive approach off Sunrise Street for access to the 2nd dwelling must be approved by the County Public Works Department.
 - 6. New water and sewer connections for the manufactured home will be installed in accordance with the rules and regulations of the Lockwood Water and Sewer District.
 - 7. These conditions of variance approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
- 6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and**
Staff is recommending a condition to require the installation of the manufactured home within 6 months of Board approval. .
- 7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.**
Granting of variance will not allow a use that is prohibited. Residential uses are allowed in the R-150 zoning district.

The map displays a residential area with various zoning districts and property lots. The following table summarizes the key features and labels:

Feature/Label	Description/Location
HC	Heavy Commercial zoning district (pink area)
R-150	Single-Family Residential zoning district (yellow area)
CC	Community Center zoning district (red area)
R-70	Single-Family Residential zoning district (light blue area)
Subject Property	Lot 1844, outlined in red, located at the intersection of NAYLOR ST and SUNRISE AVE
NAYLOR ST	Street running vertically through the center of the map
SUNRISE AVE	Street running horizontally across the bottom of the map
OLD HARDIN RD	Street running diagonally from the bottom left towards the center
REYNOLDS ST	Street running vertically on the left side of the map
Lot Numbers	Various lot numbers are labeled throughout the map, including 1709, 1721, 1728, 1747, 1801, 1804, 1805, 1807, 1812, 1814, 1818, 1820, 1825, 1827, 1828, 1831, 1833, 1838, 1840, 1844, 1848, 1902, 1905, 1906, 1912, 1914, 1918, 1919, 1921, 1930, 1937, 1940, 1944, 1947, 1950, 1952, 1954, 1956, 1958, 1960, 1962, 1964, 1966, 1968, 1970, 1972, 1974, 1976, 1978, 1980, 1982, 1984, 1986, 1988, 1990, 1992, 1994, 1996, 1998, 2000, 2002, 2004, 2006, 2008, 2010, 2012, 2014, 2016, 2018, 2020, 2022, 2024, 2026, 2028, 2030, 2032, 2034, 2036, 2038, 2040, 2042, 2044, 2046, 2048, 2050, 2052, 2054, 2056, 2058, 2060, 2062, 2064, 2066, 2068, 2070, 2072, 2074, 2076, 2078, 2080, 2082, 2084, 2086, 2088, 2090, 2092, 2094, 2096, 2098, 2100, 2102, 2104, 2106, 2108, 2110, 2112, 2114, 2116, 2118, 2120, 2122, 2124, 2126, 2128, 2130, 2132, 2134, 2136, 2138, 2140, 2142, 2144, 2146, 2148, 2150, 2152, 2154, 2156, 2158, 2160, 2162, 2164, 2166, 2168, 2170, 2172, 2174, 2176, 2178, 2180, 2182, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2202, 2204, 2206, 2208, 2210, 2212, 2214, 2216, 2218, 2220, 2222, 2224, 2226, 2228, 2230, 2232, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, 2254, 2256, 2258, 2260, 2262, 2264, 2266, 2268, 2270, 2272, 2274, 2276, 2278, 2280, 2282, 2284, 2286, 2288, 2290, 2292, 2294, 2296, 2298, 2300, 2302, 2304, 2306, 2308, 2310, 2312, 2314, 2316, 2318, 2320, 2322, 2324, 2326, 2328, 2330, 2332, 2334, 2336, 2338, 2340, 2342, 2344, 2346, 2348, 2350, 2352, 2354, 2356, 2358, 2360, 2362, 2364, 2366, 2368, 2370, 2372, 2374, 2376, 2378, 2380, 2382, 2384, 2386, 2388, 2390, 2392, 2394, 2396, 2398, 2400, 2402, 2404, 2406, 2408, 2410, 2412, 2414, 2416, 2418, 2420, 2422, 2424, 2426, 2428, 2430, 2432, 2434, 2436, 2438, 2440, 2442, 2444, 2446, 2448, 2450, 2452, 2454, 2456, 2458, 2460, 2462, 2464, 2466, 2468, 2470, 2472, 2474, 2476, 2478, 2480, 2482, 2484, 2486, 2488, 2490, 2492, 2494, 2496, 2498, 2500, 2502, 2504, 2506, 2508, 2510, 2512, 2514, 2516, 2518, 2520, 2522, 2524, 2526, 2528, 2530, 2532, 2534, 2536, 2538, 2540, 2542, 2544, 2546, 2548, 2550, 2552, 2554, 2556, 2558, 2560, 2562, 2564, 2566, 2568, 2570, 2572, 2574, 2576, 2578, 2580, 2582, 2584, 2586, 2588, 2590, 2592, 2594, 2596, 2598, 2600, 2602, 2604, 2606, 2608, 2610, 2612, 2614, 2616, 2618, 2620, 2622, 2624, 2626, 2628, 2630, 2632, 2634, 2636, 2638, 2640, 2642, 2644, 2646, 2648, 2650, 2652, 2654, 2656, 2658, 2660, 2662, 2664, 2666, 2668, 2670, 2672, 2674, 2676, 2678, 2680, 2682, 2684, 2686, 2688, 2690, 2692, 2694, 2696, 2698, 2700, 2702, 2704, 2706, 2708, 2710, 2712, 2714, 2716, 2718, 2720, 2722, 2724, 2726, 2728, 2730, 2732, 2734, 2736, 2738, 2740, 2742, 2744, 2746, 2748, 2750, 2752, 2754, 2756, 2758, 2760, 2762, 2764, 2766, 2768, 2770, 2772, 2774, 2776, 2778, 2780, 2782, 2784, 2786, 2788, 2790, 2792, 2794, 2796, 2798, 2800, 2802, 2804, 2806, 2808, 2810, 2812, 2814, 2816, 2818, 2820, 2822, 2824, 2826, 2828, 2830, 2832, 2834, 2836, 2838, 2840, 2842, 2844, 2846, 2848, 2850, 2852, 2854, 2856, 2858, 2860, 2862, 2864, 2866, 2868, 2870, 2872, 2874, 2876, 2878, 2880, 2882, 2884, 2886, 2888, 2890, 2892, 2894, 2896, 2898, 2900, 2902, 2904, 2906, 2908, 2910, 2912, 2914, 2916, 2918, 2920, 2922, 2924, 2926, 2928, 2930, 2932, 2934, 2936, 2938, 2940, 2942, 2944, 2946, 2948, 2950, 2952, 2954, 2956, 2958, 2960, 2962, 2964, 2966, 2968, 2970, 2972, 2974, 2976, 2978, 2980, 2982, 2984, 2986, 2988, 2990, 2992, 2994, 2996, 2998, 3000, 3002, 3004, 3006, 3008, 3010, 3012, 3014, 3016, 3018, 3020, 3022, 3024, 3026, 3028, 3030, 3032, 3034, 3036, 3038, 3040, 3042, 3044, 3046, 3048, 3050, 3052, 3054, 3056, 3058, 3060, 3062, 3064, 3066, 3068, 3070

Photos of the Subject Property and Surrounding Area



Subject
Property

1844 Old Hardin Road



Subject
Property

1822 Old Hardin
Road & 1833
Sunrise Street

View west along Alexander Road



View north across Old Hardin Road



View west along Old Hardin Road



View east on Old Hardin Road

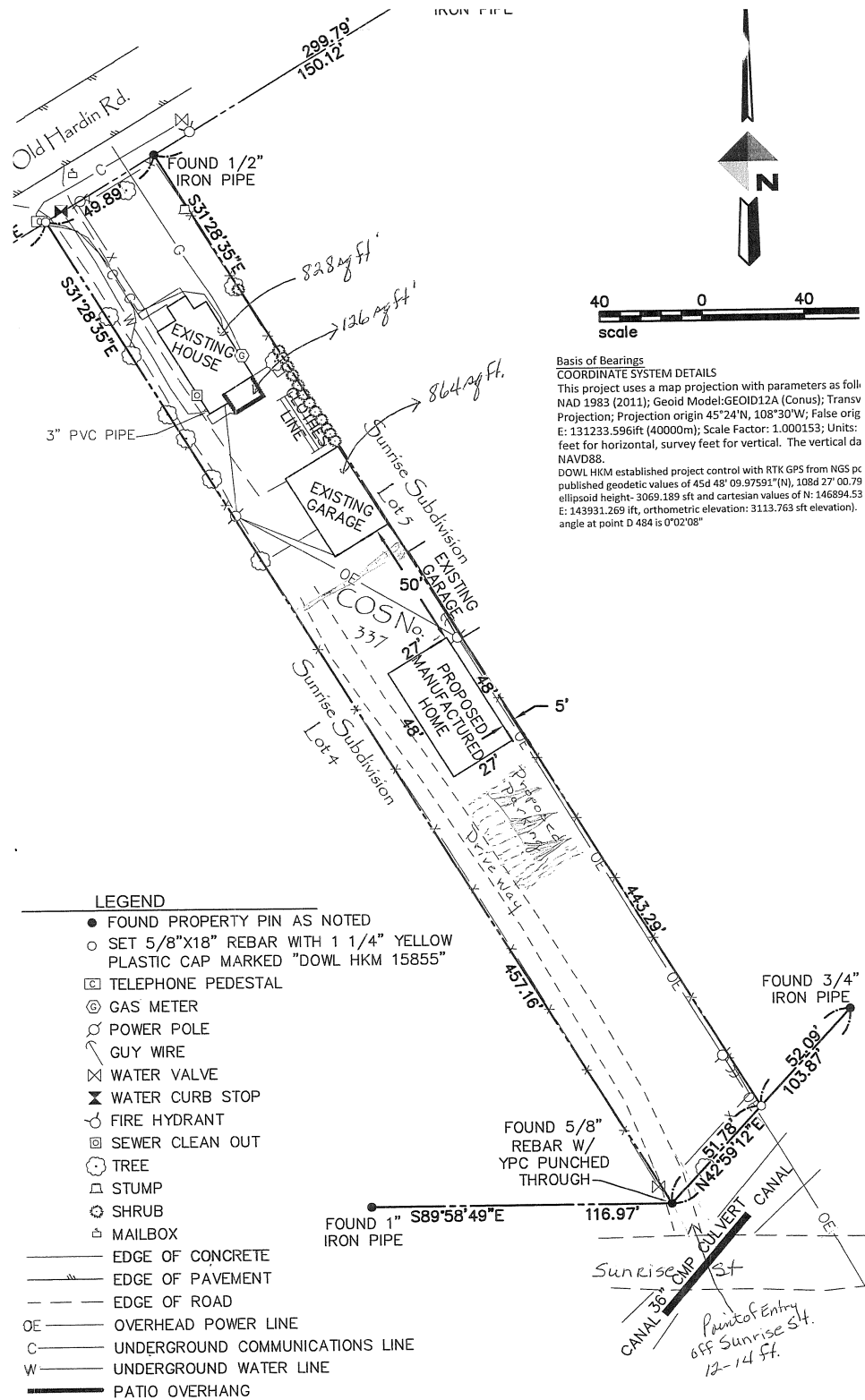


Aerial



Subject Property and surrounding property with 2 dwellings on lots less than 30,000 square feet

Site Plan



Applicant's Letter

APPLICATION FORM

COUNTY VARIANCE ID: County Variance # 266 - Project # 13-155

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings-Yellowstone County Unified Zoning Regulations.

TAX ID # C05143 COUNTY COMMISSIONER DISTRICT # 1

Legal Description of Property: S25, T201N, R26E C05 337
Geo Code: 03-1033-25-3-08-07-0000

Address or General Location (If unknown, contact County Public Works): 1844 Old Hardin Rd.
Billings, Mt. 59101

Zoning Classification: Residential Rural 15000 R-150

Size of Parcel (Area & Dimensions): 32160 sq ft; N=49.89', E=443.29', S=51.89', W=457.16'

Covenants or Deed Restrictions on Property: Yes ☐ No ☒

If yes, please attach to application

Variance Requested: Place additional single story, single family residence on south portion of Lot not currently being used

Facts of Hardship: Unable to use south portion for anything. Too large for current resident to maintain. Several lots surrounding this lot have two dwellings in place. Lot is currently serviced by Hookwood Sewer. Second dwelling creates best use of land.

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): Jerry + Ailene F. Thulesen
(Recorded Owner)
1112 Centennial Lane; Corvallis, Mt. 59828
(Address)
406-545-8441 ajthule@yahoo.com
(Phone Number) (email)

Agent(s):
(Name)
(Address)
(Phone Number) (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: Jerry Thulesen Date: 6-13-2013
(Recorded Owner)
Ailene F. Thulesen

County Variance 2013 updated 11/5/2012

Lockwood Water & Sewer Letter



1644 Old Hardin Road

Billings, Montana 59101

www.lockwoodwater.com

(406) 259-4120

Fax (406) 259-1113

Nicole Cromwell
Zoning Coordinator
510 N. Broadway
4th Floor Parmly Library
Billings, Mt. 59101



RE: County Variance #266 – 1844 Old Hardin Road – Lot Area

Dear Nicole,

The following are our comments in regards to the above referenced Lot Area Request:

1. There is an existing 8" water main located on the South side of Old Hardin Road. The existing home at 1844 Old Hardin Road is currently served by water.
2. The new home will need to have a separate water service installed in accordance with our Rules and Regulations. All review fees and a System Development Fee will need to be paid based on the water service line size installed to the new home.
3. There is an existing 24" sanitary sewer main located in Old Hardin Road. Because of the depth of the sewer main, the new home will be allowed to hookup to the existing sewer service line serving the existing home. All review fees and a System Development Fee will need to be paid for the sewer service based on the water service line size installed to the new home.

If any additional information is needed by either the Developer/Owner or you, we will be available to meet with you. A copy of our Rules and Regulations with our rates and fees are attached for reference.

A handwritten signature in blue ink that reads "Woody Woods".

Woody Woods, District Manager
Lockwood Water & Sewer District